

REMARKS

Claims 1-18 have been amended and claims 19-22 have been added. Applicant reserves the right to pursue the original claims and other claims in this and in other applications.

The specification stands objected to. Specifically, the Office Action requests that the Abstract be free of legal phraseology. The Abstract has been amended in accordance with the Examiner's request. Accordingly, the objection should be withdrawn.

Claim 2 stands objected to as allegedly being an improper dependent claim. Applicant respectfully traverses the objection. Claim 1 recites that the inner and outer sleeves "compris[e] electrically conductive materials." Claim 2, prior to this amendment, recited that "at least one of the inner sleeve and the outer sleeve is made of the electrically conductive material" (emphasis added). Applicant respectfully submits that the phrase "made of" is narrower than "comprising" and that the prior version of claim 2 limited the subject matter of claim 1. In an effort to further the prosecution of the application, however, Applicant has amended claim 2 to address the concerns raised in the Office Action. Accordingly, the objection should be withdrawn.

Claim 11 stands objected to because the limitation "the contact surfaces" in line 2 lacks antecedent basis. Claim 11 has been amended to address the concerns raised in the Office Action. Accordingly, the objection should be withdrawn.

Claims 16 and 17 stand objected to because the limitation "the control means" lacks antecedent basis. Claims 16 and 17 have been amended to address the concerns raised in the Office Action. Accordingly, the objection should be withdrawn.

Claims 1-9, 11, 14, 15 and 18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Walsh in view of Sauer. The rejection is respectfully traversed.

Claim 1 recites a "removable electrocoagulative anastomosis device for the production of anastomoses between first and second hollow organs." The removable electrocoagulative

anastomosis device comprises “an inner sleeve to be mounted around the end of the first hollow organ such that the end can then be turned inside out to lie over the inner sleeve; an outer sleeve to be mounted around the end of the second hollow organ after the latter end has been arranged over the inside out end of the first hollow organs; the inner and outer sleeves each being made separable so that they can be removed after anastomosis formation has been completed, and comprising electrically conductive materials that can be connected to an external current or voltage source so that a current or a voltage can be applied to the electrically conductive materials for the electrocoagulation of the hollow organs that are to be connected to one another.”

As reflected in paragraph [0005] of the present specification, the claimed invention relates to a device for anastomosis that can be removed from the patient's body after completion of anastomosis. Moreover, as described in paragraphs [0007] and [0010] (see e.g., page 5, lines 8-14) of the present specification, the claimed invention seeks to provide a gentle, yet secure and permanent connection of hollow organs using electrocoagulation. These aspects of the claimed invention, both of which prescribe limitations on the structure of the device, are reflected in amended claim 1, which specifically recites a “removable electrocoagulative anastomosis device.”

Contrary to the removable electrocoagulative anastomosis device of the claim 1 invention, Walsh teaches an anastomosis device that is retained in the patient's body, holding the hollow organs against one another by spring pressure and thus allowing the hollow organs to graft by natural biological processes such as e.g., by a natural healing process (cf. Walsh Fig. 24 and its corresponding description at col. 11, lines 8-9 and 29-34). Accordingly, Walsh fails to disclose, teach or suggest a device that is removable or that is suitable for electrocoagulative anastomosis. Among other things, Walsh rings 610 and 612 are formed of a single piece of material and thus cannot be removed from the hollow organs subsequent to anastomosis. Furthermore, Walsh only specifies metal for manufacture of the device (cf. Walsh col. 12, lines 39-41 as well as page 4, line 3 of the Office Action), rings 610 and 612 are held at the same potential via clip 600 and are accordingly unsuitable for electrocoagulative anastomosis.

Sauer fails to cure the Walsh deficiencies. Having regard for the explicit aim of Walsh, Applicant earnestly questions whether the person skilled in the art would find the alleged motivation in Sauer to modify the device of Walsh to comprise a separable inner sleeve. In this respect, Applicant notes that, unless the invention of Walsh were modified to provide a swift form of anastomosis, e.g., electrocoagulative anastomosis, modification of the inner sleeve to be separable would be without practical utility; that is, it would entail the undesirable risk of additional surgery for removing the anastomosis device after the natural healing process is completed. Yet, as noted above, the device of Walsh would require significant modification to be suitable for electrocoagulative anastomosis. Indeed, Applicant firmly believes that such modification would contradict the essence of the Walsh teachings. Accordingly, the Walsh and Sauer combination is improper as Sauer teaches away from use with Walsh.

Accordingly, claim 1 is allowable over the cited combination. Claims 2-9, 11, 14, 15 and 18 depend from claim 1 and are allowable along with claim 1 for at least the foregoing reasons. The rejection should be withdrawn and the claims allowed.

Claim 10 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Walsh in view of Sauer and Wozniak. The rejection is respectfully traversed.

Claim 10 depends from claim 1 and is allowable over the Walsh and Sauer combination for at least the reasons set forth above. Wozniak, cited as allegedly teaching plastic connectors, fails to cure the above noted deficiencies. As such, claim 10 is allowable over the cited combination. Moreover, Wozniak relates to an anastomosis technique that does not employ electrocoagulative anastomosis and that instead relies on a heat shrinkable sleeve that remains in the patient's body. As such, Applicant respectfully submits that the teachings of Wozniak are not readily applicable to the subject matter of the present claims. The rejection should be withdrawn and the claims allowed.

Claims 12, 13, 16 and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Walsh in view of Sauer and Bito. The rejection is respectfully traversed. Claims 12, 13, 16 and 17 depend from claim 1 and are allowable over the Walsh and Sauer combination for at least

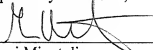
the reasons set forth above. Bito, cited as allegedly teaching a sensor, fails to cure the above noted deficiencies. As such, claims 12, 13, 16 and 17 are allowable over the cited combination. The rejection should be withdrawn and the claims allowed.

New claims 19-22 are believed to be allowable for at least the reasons set forth above and on their own merits.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

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Respectfully submitted,

By 
Gianni Minutoli

Registration No.: 41,198
DICKSTEIN SHAPIRO LLP
1825 Eye Street, NW
Washington, DC 20006-5403
(202) 420-2200
Attorneys for Applicant